

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHAEL D. DARLING,

Plaintiff,

5:24-cv-1003 (BKS/TWD)

v.

JOSEPH M. SISE,

Defendant.

Appearances:

Plaintiff pro se:

Michael D. Darling

24-B-0396

Auburn Correctional Facility

P.O. Box 618

Auburn, NY 13024

Hon. Brenda K. Sannes, Chief United States District Judge:

MEMORANDUM-DECISION AND ORDER

I. BACKGROUND

On August 15, 2024, Plaintiff pro se Michael D. Darling filed this action under 42 U.S.C. § 1983, against his former defense attorney, Joseph Sise, alleging that Defendant Sise violated Plaintiff's Fourth, Fifth, Sixth and Fourteenth amendment rights and Article VI of the United States Constitution. (Dkt. No. 1). Plaintiff sought leave to proceed in forma pauperis. (Dkt. No. 2). This action was referred to United States Magistrate Therese Wiley Dancks who, on October 25, 2024, granted Plaintiff's motion to proceed in forma pauperis, and recommended dismissal without prejudice for lack of subject matter jurisdiction, with leave to amend. (Dkt. No. 11). Plaintiff filed an amended complaint on November 15, 2024, which was referred to Magistrate

Judge Dancks. (Dkt. No. 18). On November 25, 2024, Magistrate Judge Dancks issued a Report-Recommendation recommending that the amended complaint be dismissed without prejudice for lack of subject matter jurisdiction. (Dkt. No. 19). Magistrate Judge Dancks advised Plaintiff that “[p]ursuant to 28 U.S.C. § 636(b)(1), the parties have fourteen (14) days within which to file written objections to the foregoing report” and that “failure to object . . . within fourteen days will preclude appellate review.” (*Id.* at 6). Plaintiff did not file any objections.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is hereby

II. CONCLUSION

For these reasons, it is hereby


ORDERED that Magistrate Judge Dancks’s Report-Recommendation (Dkt. No. 19) is **ADOPTED**; and it is further

ORDERED that the amended complaint (Dkt. No. 16) is **DISMISSED without prejudice for lack of subject matter jurisdiction**; and it is further

ORDERED that the Clerk is directed to close this case and serve this Memorandum-Decision and Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: December 27, 2024
Syracuse, New York


Brenda K. Sannes
Chief U.S. District Judge